

REMARKS

Claims 1-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Lieberman in view of Geller.

Reconsideration is requested.

Claim 8 has been amended to be in independent form by including the pertinent parts of claim 1 from which claim 8 depended. Claims 9-13 which were directly or indirectly dependent on claim 1 have been made dependent on claim 8. Since claim 8 has been rewritten in independent form, it is of the same scope as former claim 8 and does not raise any new issue.

Amended claim 8 points out an immediate release compressed pharmaceutical tablet where said second segment does not contain any pharmacologically effective drug or drugs. This concept is not disclosed by either Lieberman or Geller as the tablets disclosed by these references are either three layer tablets or one layer tablets. The language of amended claim 8 which is derived from canceled claim 1, part (a), points out that the claimed tablet *consists* of two segments. This language excludes the three layered tablets of Lieberman who does not make a two layered tablet obvious because Lieberman teaches that an intermediate layer is present to separate two incompatible drugs. Thus Lieberman does not make obvious a tablet that consist of a drug layer and an inactive layer, as pointed out in amended claim 8.

One skilled in the art who follows the teachings of Lieberman would not attach a single inactive layer to a one layer tablet containing a drug because Lieberman only teaches that an inactive layer is useful for separating two incompatible active drug layers and when two active drug

layers are not present, as in amended claim 8, there is no reason according to Lieberman to provide any inactive layer.

Geller is only concerned with a single layer tablet and does not disclose the benefit of being able to break a tablet where there is a deeply scored active layer and an inert lower layer which results in a more equal division of the active component.

The applicant agrees that Lieberman and Geller disclose the concept of scoring a pharmaceutical tablet which was acknowledged in the specification in paragraph [0002].

Geller discloses a pharmaceutical tablet having a score that is "1/3 to 2/3" the depth of the tablet for the purpose of facilitating "separation into subdivisions containing substantially equal amounts of pharmaceutically active ingredients". Nothing in Geller discloses a concept of proving "equal" amounts of pharmaceutically active ingredients when a scored tablet, having an inert segment, is broken along the score as pointed out in amended claim 8 as most or all of the breakage will take place through the inert layer which provides for a more accurate division of the tablet as disclosed in the specification at pages 4 and 5.

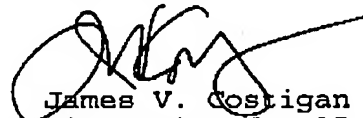
There is no reason to modify Lieberman with the Geller score technique because Geller is concerned with making a single layer tablet with one active ingredient and does not suggest a two layered tablet where the score is a minimum of 70% of the distance from the top of the tablet to the second segment as pointed out in claim 10. If one were to deeply score the Lieberman tablet, one would not obtain the benefits of the deep score taught by Geller. This is evident from the fact that in a three layer tablet, the presence of a deep score would have no effect on the third layer based on the Geller teaching that the score should not extend more than two-thirds of the way through the tablet which in the case of the Lieberman tablet, would not allow the score to be placed into the third active layer.

The different considerations that arise from the breaking of a layered tablet versus the breaking of an unlayered tablet point to the unobviousness of the claimed invention as compared to the different concepts set forth in Lieberman and Geller. Each of the cited references describe tablet structures that are made differently for different purposes. The concept of the present invention is not found in either of the cited references. For these reasons, it is requested that this ground of rejection be withdrawn.

Claims 1, 3-7 and 10 were provisionally rejected for obviousness double patenting over copending application Serial No. 11/441,455. This rejection has been rendered moot by this Amendment which has canceled the rejected claims or changed the dependency of the claims to be dependent on claim 8, which was not rejected for double patenting.

An early and favorable action is earnestly solicited.

Respectfully submitted,



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